

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JUL 10 2002

PATRICK FISHER
Clerk

CARL DIXON,

Petitioner - Appellant,

v.

RICHARD SOARES and KEN
SALAZAR, Attorney General for the
State of Colorado,

Respondents - Appellees.

No. 02-1093
(D.C. No. 99-D-528)
(D. Colorado)

ORDER AND JUDGMENT*

Before **EBEL, LUCERO** and **O'BRIEN**, Circuit Judges.

Carl Dixon appeals pro se from the denial of his petition for habeas corpus relief under 28 U.S.C. § 2254. Dixon was convicted in Colorado state court of first degree felony murder and sentenced to life imprisonment. His § 2254 petition argues five grounds for relief: (1) that he did not voluntarily waive his

* After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2) and 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This Order and Judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

right to testify; (2) that no probable cause existed for the issuance of a search warrant; (3) that evidence irrelevant to the crime charged erroneously was admitted; (4) that a prior inconsistent statement of a witness erroneously was excluded; and (5) that the evidence was insufficient to convict.

The magistrate judge recommended denial of the first, third, and fourth claims on the merits, of the second claim as not cognizable in habeas because it was fully litigated in state court, and of the fifth claim as procedurally barred. After carefully evaluating Dixon's claims, the district court adopted the magistrate's recommendation.

For substantially the reasons given by the district court, we GRANT Dixon's motion to proceed in forma pauperis, DENY a certificate of appealability, and DISMISS the appeal.

ENTERED FOR THE COURT

David M. Ebel
Circuit Judge